

SUPREME COURT OF ARIZONA

In the Matter of ) Arizona Supreme Court  
 ) No. R-14-0030  
RULE 7.2(b) AND FORM 4(a), )  
RULES OF CRIMINAL PROCEDURE )  
 )  
 )  
 )  
 )  
 ) **FILED 08/27/2015**

## ORDER

ADOPTING AMENDMENTS TO RULE 7.2(b) AND FORM 4(a),  
ARIZONA RULES OF CRIMINAL PROCEDURE, ON A PERMANENT BASIS

Rule 7.2(b) and Form 4(a) were amended on an emergency basis effective December 16, 2014, with a comment period ending May 20, 2015. No comments were received. Upon consideration,

IT IS ORDERED adopting the rule change, as set forth in the attachment hereto, on a permanent basis.

DATED this 27th day of August, 2015.

SCOTT BALES  
Chief Justice

Arizona Supreme Court No. R-14-0030  
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TO:  
David K Byers  
Rule 28 Distribution List

**ATTACHMENT\***

**ARIZONA RULES OF CRIMINAL PROCEDURE**

\* \* \*

**Rule 7.2. Right to release**

**a.** [No change in text.]

**b. Before Conviction; Persons Charged With an Offense Not Bailable as a Matter of Right.** A person shall not be released on bail if the court finds the person is not bailable pursuant to law. ~~A.R.S. Const. Art. 2, § 22 and A.R.S. § 13-3961. If the allegation involves A.R.S. § 13-3961(A)(5), the person shall not be considered bailable if the court finds (1) that the proof is evident or the presumption great that the person committed a serious offense, and (2) probable cause that the person entered or remained in the United States illegally.~~

**c.-g.** [No change in text.]

**Comment to 2014 Amendment to Rule 7.2(b)**

Rule 7(b) was amended in 2014 to comply with *Lopez-Valenzuela v. Arpaio*, 770 F.3d 772 (9th Cir. 2014), *cert. denied*, 135 S. Ct. 2046 (2015), which held unconstitutional A.R.S. Const. Art. 2, § 22(A)(4) and A.R.S. § 13-3961(A)(5) mandating that bail be denied to undocumented immigrants charged with a serious crime.

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\* Changes or additions in rule text are indicated by underscoring and deletions from text are indicated by strikeouts.

**Form 4(a). Release Questionnaire/Law Enforcement**

\* \* \*

**A.** [No change in text.]

**B. Probable Cause Statement**

1. Summarize and include the facts which establish **probable cause for the crime(s) charged**. Certain felonies may be non-bondable and require facts which establish **proof evident or presumption great** for the crime(s) charged. These include (1) felonies involving a capital offense, sexual assault, sexual conduct with a minor who was under fifteen years of age, or molestation of a child who is under fifteen years of age, and (2) ~~any class 1, 2, 3, or 4 felony or any violation of § 28-1383 if the person has entered or remained in the United States illegally, and (3) felony offenses committed when the person charged is already admitted to bail on a separate felony charge.~~

. . . .

2.-3. [No change in text.]

**C.-H.** [No change in text.]

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